



# MEMORANDUM

AGENDA ITEM III. I

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DATE: MAY 7, 2012

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: TIME EXTENSIONS FOR DEVELOPMENTS OF REGIONAL IMPACT (DRI) REVIEW

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## Background

At the April 2, 2012 meeting, the Council directed staff to provide information regarding DRIs that have received extensions from Council staff. There are seven (7) proposed DRIs that have not been presented to the host local government for consideration of a Development Order at a public hearing. The attached DRI Status Report provides the name of the development, its general location, types and amounts of development, and where the project is in the review process. Council staff has been providing extensions, as requested by the Applicant.

In 2009, Governor Scott signed the Community Planning Act, which included a provision to exempt developments from the DRI Program if the development is located in a dense urban land area (DULA), except within 2-miles of the Everglades Protection Area. Broward and Miami-Dade Counties are DULAs. A DRI that had received its D.O. prior to the Community Planning Act could elect to continue in the Program or rescind the D.O. (§380.115, Fla. Stat.).

The DRIs that have been provided time extensions or tolling can be grouped into three categories:

**Category 1: (Downtown Miami and Florida Panthers Entertainment District)** A pre-application conference was held, but an Application for Development Approval (ADA) was not submitted. Council staff provided an extension to submit the ADA. Section 380.06(7)(c), Florida Statutes (Fla. Stat.), and Rule 73C-40.021(3), *Florida Administrative Code* (F.A.C.) state: "if the application for development approval is not submitted within one year after the date of the preapplication conference, the regional planning agency, the local government having jurisdiction, or the applicant may request that another preapplication conference be held."

It should note that both of these DRIs have an existing Development Order (D.O.). In the case of Florida Panthers, the Applicant was filing a Substantial Deviation ADA. The DRI is also within two miles of the Everglades Protection Area. The Downtown Miami DRI was filing the third increment that was identified and approved as part of its approved Master DRI D.O.

**Category 2: (Davie Commons and Riverbend)** A pre-application conference was held; ADA was submitted and found insufficient. "Sufficiency" means the information needed to assess a development has been provided. Rule 73C-40.022(3)(c), F.A.C., states "if the applicant does not provide information requested by the regional planning agency within 120 days of the regional planning agency's request, or within a time agreed upon by the applicant and the regional planning agency, the application shall be considered withdrawn."

**Category 3: (Southeast Overtown Park West, Beacon Countyline, and Parkland)** A pre-application conference was held; ADA was submitted and found sufficient; and a Regional Report issued by the Council. The Applicant requested suspension of timelines in §380.06(11)d, Fla. Stat., to accommodate D.O. conditions' negotiations.

The referenced statute states: "A public hearing date shall be set by the appropriate local government at the next scheduled meeting. The public hearing shall be held no later than 90 days after issuance of notice by the regional planning agency that a public hearing may be set, unless an extension is requested by the applicant." The local government D.O. hearing has not been held.

#### Staff Analysis

**Category 1:** Section 380.06(7)(c), Fla. Stat., and Rule 73C-40.021(3), F.A.C., authorize the Council to request a new preapplication meeting if the ADA is not submitted within one year of the initial ADA. There are no other portions of the statute or rule that guide how a Regional Planning Council should handle untimely ADA submittal. The requirement for a new preapplication conference allows the Council to ensure the ADA employs the best available data and methodologies relevant to current circumstances. Since both developments in Category 1 have a D.O., the provisions of §380.115, Fla. Stat.<sup>1</sup>, would apply. The Council could set a date for action by the Applicant, but if the timeline is not met, Downtown Miami and Florida Panthers retain the option to have a new pre-application conference, at which decisions about data and methodology (and their relevance based on the conditions that existed at the time of the pre-application conference) would apply.

**Category 2:** Rule 73C-40.022(3)(c), F.A.C., does authorize the Council to set a date, with the Applicant, to complete the sufficiency review of an ADA and move to the next steps in the DRI review process. If the Council sets a date and Riverbend or Davie Commons does not comply, the Applicant would be excluded from participation in the DRI process.

**Category 3:** The scheduling of the public hearing, at which the D.O. will be considered, is linked to the Council's sufficiency determination; however, the Applicant can toll the clock. The scheduling of the requisite public hearing(s) is the responsibility of the host jurisdiction.

The Council does review the D.O. after adoption to determine if there is adequate mitigation for a DRI's adverse impacts to state and regional resources and facilities. There are no portions of the statute or rule that guide how a Regional Planning Council should handle a DRI for which a Regional Report has been issued but a public hearing has not been held. The provisions of local government regulations regarding the amount of time available to consider an application for development approval would apply.

#### Recommendation

The DRI process does afford the Council and a local government to work with a property owner to institute a common plan of development for intense and dense proposals. With the exception of developments within two miles of the Everglades Protection Area, the DULA designation for Broward and Miami-Dade Counties affects the creation of new DRIs. Council staff proposes working with the Applicant's representatives to develop revised dates for completion of the review process.

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<sup>1</sup> A development that has received DRI approval, but is now exempt because of a change in the statute may elect to continue in the program or rescind the D.O.

SFRPC DEVELOPMENT OF REGIONAL IMPACT (DRI) STATUS REPORT

4/26/2012

| Project Name & Description:  | Project Status:  |                    |   |  |                              | Notes: |  |
|--|------------------|--------------------|---|--|------------------------------|--------|--|
|  | Pre-Appli-cation | Sufficiency Review |   |  | Council Review & Transmittal |        | Local Govt. Adoption   |
|  | 1                | 2+                 | S |  |                              |        |  |
| <b>BROWARD COUNTY DRIs</b>   |                  |                    |   |  |                              |        |  |
| <b>The Commons</b><br><i>Town of Davie</i><br>NW Corner of I-75 & Royal Palm Blvd.   | Retail           | 1.1 million sf     |   |  |                              |        | Council found Town of Davie Land Use Plan Amendment generally inconsistent with Strategic Regional Policy Plan (SRPP) for South Florida 2/2/09. DCA ORC Report 3/13/09.  |
|  | Office           | 885,000 sf         |   |  |                              |        |  |
|  | Hotel            | 300 rooms          |   |  |                              |        |  |
| <b>FL Panthers Entertain Dist*</b><br>Substantial Deviation<br><i>City of Sunrise</i><br>SE Corner of NW 136th Ave. & Sawgrass Expy. | Residential      | 4,800 units        |   |  |                              |        | Pre-application Conference held 2/26/09. Pre-application Summary sent 4/17/09. Agency Pre-app comments sent 5/13/09. Applicant response received 10/2/09. Applicant granted extension to submit ADA by 6/25/10. Applicant has requested an additional extension until 08/25/11. Applicant has requested an extension but is revising the request to include a proposed date. |
|  | Retail           | 950,000 sf         |   |  |                              |        |  |
|  | Hotel            | 1,450 rooms        |   |  |                              |        |  |
|  | Office           | 1,850,000 sf       |   |  |                              |        |  |
|  | Classroom        | 30,000 sf          |   |  |                              |        |  |
|  | Theater          | 9,200 seats        |   |  |                              |        |  |
| <b>Riverbend</b><br><i>City of Fort Lauderdale</i><br>Between SW 27th Ave. & I-95 split by Broward Blvd.                             | Residential      | 1,250 units        |   |  |                              |        | Pre-application Conference held 2/29/08. ADA received 11/24/08. Applicant granted extension to respond to SIN1 comments by 07/20/11. The Applicant advised Council staff by email that the ADA would be withdrawn.   |
|  | Retail           | 992,042 sf         |   |  |                              |        |  |
|  | Office           | 3.27 million sf    |   |  |                              |        |  |
|  | Hotel            | 850 rooms          |   |  |                              |        |  |
| SIN = Statement of Information Needed  |                  |                    |   |  | completed                    |        | Additional information on ADAs and a database of all DRI projects are found at <a href="http://www.sfrpc.com/dri.htm">www.sfrpc.com/dri.htm</a> .  |
| D.O. = Development Order   |                  |                    |   |  | in process                   |        |  |

SFRPC DEVELOPMENT OF REGIONAL IMPACT (DRI) STATUS REPORT

4/26/2012

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|--|-----------------|--------------------|---|--|------------------------------|--------|---|
|  | Pre-Application | Sufficiency Review |   |  | Council Review & Transmittal |        | Local Govt. Adoption  |
|  | 1               | 2+                 | S |  |                              |        |   |
| <b>MIAMI-DADE COUNTY DRIs</b>  |                 |                    |   |  |                              |        |   |
| <b>Parkland</b><br><i>Miami-Dade County</i><br>NE Corner of SW 177th Ave. & SW 152nd St.                                     | Residential     | 6,941 units        |   |  |                              |        | ADA found sufficient 10/31/08. Development Order (D.O.) Conditions meeting held 11/24/08. Second meeting to be determined. Application for concurrent CDMP Amendment in process.  |
|  | Retail          | 200,000 sf         |   |  |                              |        |   |
|  | Office          | 100,000 sf         |   |  |                              |        |   |
|  | Industrial      | 33 acres           |   |  |                              |        |   |
|  | Schools         | 2 K-8 & High       |   |  |                              |        |   |
|  | Hospital        | 200 bed            |   |  |                              |        |   |
| <b>Beacon Countyline</b><br><i>City of Hialeah</i><br>NW 154th St. & NW 97th Ave.  | Retail          | 350,000 sf         |   |  |                              |        | ADA found sufficient 11/14/08. D.O.. Conditions meeting held 12/16/08. Second meeting to be determined. Council found Adopted FLUM Amendment consistent with SRPP 6/1/09. Applicant considering options allowed under SB 360 and has until 12/31/11 to decide to continue in the DRI Program. |
|  | Office          | 750,000 sf         |   |  |                              |        |   |
|  | Warehouse       | 4,300,000 sf       |   |  |                              |        |   |
|  | Hotel           | 350 rooms          |   |  |                              |        |   |
| <b>Downtown Miami Inc. III</b><br><i>City of Miami</i><br>Between NW 2nd Ave. & Biscayne Bay                                 | Residential     | 10,000 units       |   |  |                              |        | Pre-application Conference held 4/16/08. Applicant granted a second 12-month extension to submit ADA by 4/15/12.  |
|  | Retail          | 1.0 million sf     |   |  |                              |        |   |
|  | Office          | 4.0 million sf     |   |  |                              |        |   |
| <b>SE Overtown Park W Inc. III</b><br><i>City of Miami</i><br>N at I-395, E at Biscayne Blvd., S at NW/NE 5th St., W at I-95 | Office          | 2,300,000 sf       |   |  |                              |        | Council Impact Assessment Report approved for transmittal to City of Miami at the Feb. 2012 meeting.  |
|  | Retail          | 1,250,000 sf       |   |  |                              |        |   |
|  | Residential     | 4,000 du           |   |  |                              |        |   |
|  | Hotel           | 2,100 rooms        |   |  |                              |        |   |
|  | Recreation      | 8,000 seats        |   |  |                              |        |   |
|  | Convention      | 200,000 sf         |   |  |                              |        |   |

**MONROE COUNTY DRIs**

No projects under review.

**Definitions:**

ADA = Application for Development Approval

D.O. = Development Order

 completed  
 in process

Additional information on ADAs and a database of all DRI projects are found at [www.sfrpc.com/dri.htm](http://www.sfrpc.com/dri.htm).